

**U.S. DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION
WASHINGTON, D.C. 20202**

**APPLICATION FOR PARTICIPATION
IN THE
LOCAL FLEXIBILITY
DEMONSTRATION PROGRAM
(Local-Flex)**

**FORM APPROVED
OMB No. 1810-0655, EXP. DATE 12/31/02**



DATED MATERIAL - OPEN IMMEDIATELY

Closing Date: 09/17/02

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SECTION A

DEAR COLLEAGUE LETTER



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

July 17, 2002

Dear Colleague:

Thank you for your interest in the Local Flexibility Demonstration program (Local-Flex), which is authorized under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. This groundbreaking program will provide participating local educational agencies (LEAs) with unprecedented flexibility to consolidate certain Federal education funds and to use those funds for any educational purpose under the ESEA in order to meet the State's definition of adequate yearly progress and attain specific measurable goals for improving student achievement and narrowing achievement gaps.

The enclosed application package contains information that you will need to prepare and submit your Local-Flex proposal. Please take the time to review these items carefully. By statute, LEAs in States that have indicated an intention to apply for State-Flex authority are precluded from applying for Local-Flex. Therefore, you should first review the enclosed notice inviting applications to determine whether your LEA is eligible to apply for Local-Flex.

The legislation authorizes the Secretary to enter into Local-Flex agreements with a total of 80 LEAs, with no more than three LEAs per State. The Secretary will conduct two separate Local-Flex competitions and intends to select up to forty LEAs in the initial competition. LEAs that are not prepared to apply for a Local-Flex agreement at this time will have another opportunity to compete for this program in the subsequent competition.

To be considered in the initial Local-Flex competition, you must submit your Local-Flex proposal no later than September 17, 2002. In order that we can develop a more efficient process for reviewing Local-Flex applications, we strongly encourage each potential applicant to send, by August 19, 2002, a notification of its intent to apply for participation in Local-Flex to LocalFlex@ed.gov. The notification of intent to apply for participation is optional and should not include information regarding the application. Eligible applicants that fail to provide the notification may still submit an application by the closing date.

For further information on this program, please visit our website at <http://www.ed.gov/flexibility> or send an e-mail to Ms. Milagros Lanauze of my staff at LocalFlex@ed.gov.

We look forward to receiving your application, and appreciate your efforts to improve student achievement in your district.

Sincerely,

/s/

Susan B. Neuman, Ed.D.

Enclosures

SECTION B

HOW TO USE THIS APPLICATION PACKAGE

HOW TO USE THIS APPLICATION PACKAGE

This application package contains documents, information and tools to assist you in preparing and submitting your Local-Flex application.

In preparing your application, you should use Sections C and D together.

Section C (*Federal Register* Notices, Program Statute and Equitable Participation Guidance) contains official documents you must review before preparing your Local-Flex application.

- The Notice Inviting Applications discusses eligibility for this program and the deadline for receiving applications.
- The Notice of Final Application Requirements, Selection Criteria, and Application Process establishes application requirements and selection criteria for this program; it also discusses the application process for this program.
- The Program Statute (Title VI, Part A, subpart 3 of the No Child Left Behind Act of 2001) has been reprinted here for your convenience.
- The General Equitable Participation Guidance contains information concerning the provision of equitable services to private school students and staff.

In Section D, Preparing an Application, you will find the following:

- An Introduction to the Local-Flex Program, which explains the purpose of this program and who is eligible to apply.
- A Discussion of the Application Requirements, which includes the requirements detailed in the *Federal Register* Notice of Final Application Requirements, Selection Criteria, and Application Process and references the other information (e.g., cover sheet and assurances) that you must include in your application.
- The Selection Criteria that will be used by reviewers to judge your application. They are reprinted from the *Federal Register* Notice of Final Application Requirements, Selection Criteria, and Application Process for your convenience. Your Local-Flex application should address the selection criteria as well as the application requirements.
- Guidelines for preparing your proposed Local-Flex agreement, providing some general advice for preparing your application.
- A chart to serve as a key to understanding the Local-Flex requirements. It pairs selection criteria and related application requirements, and provides a plain language checklist to assist you in determining if you have included the information that addresses a selection criterion and its associated application requirement in your narrative.
- The Local-Flex Application Cover Page and the Local-Flex Assurances forms that must be filled out, signed by the authorized official and submitted as part

of your application. Your complete Local-Flex application will consist of these two items (the cover page and the assurances) plus your narrative.

Section E contains Application Transmittal Instructions for submitting your Local-Flex application, as well as an Application Checklist to help you ensure you submit a complete application.

Section F contains an explanation of the procedures the Department will use for selecting the applicants that will enter into an agreement with the Secretary (Procedures for Selecting Local-Flex Agreements).

Section G discusses the Estimated Public Reporting Burden for this application.

SECTION C

***FEDERAL REGISTER* NOTICES, PROGRAM STATUTE, AND EQUITABLE PARTICIPATION GUIDANCE**

4000-01-U

DEPARTMENT OF EDUCATION

Local Flexibility Demonstration Program

Office of Elementary and Secondary Education, Department of Education.

Notice inviting applications for the Local Flexibility Demonstration Program.

PURPOSE OF THE PROGRAM: To provide local educational agencies (LEAs) with high-quality local flexibility demonstration proposals an opportunity to enter into local flexibility demonstration agreements ("Local-Flex" agreements) with the Secretary. The LEAs that the Secretary selects to participate in the Local-Flex program will have the flexibility to consolidate certain Federal formula grant funds in order to assist them in meeting the State's definition of adequate yearly progress and the LEA's specific measurable goals for improving student achievement and narrowing achievement gaps.

ELIGIBLE APPLICANTS: LEAs in the following States are eligible to apply for Local-Flex: Alaska, Arkansas, California, Connecticut, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New

Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

By statute, the Secretary may enter into Local-Flex agreements with no more than three LEAs in a State. Therefore, any consortium that seeks a Local-Flex agreement may include no more than three LEAs. Furthermore, only LEAs that receive formula grant funds from their State educational agency (SEA) under the Federal programs subject to consolidation may seek Local-Flex authority.

LEAs in the following States may not apply at this time because their SEA indicated, by May 8, 2002, an intent to apply for State-Flex authority: Alabama, Arizona, Colorado, Delaware, Florida, Illinois, Massachusetts, Nebraska, Pennsylvania, Tennessee, and Texas. In addition, the District of Columbia, Hawaii, Puerto Rico, and the outlying areas are not eligible to apply for Local-Flex because, for purposes of this program, the legislation considers a state-wide LEA to be an SEA.

Under the legislation, a State generally cannot receive State-Flex authority if one of its LEAs has entered into a Local-Flex agreement with the Secretary. If an LEA

enters into a Local-Flex agreement with the Secretary, its SEA may subsequently seek State-Flex authority only if that LEA agrees to be part of the SEA's State-Flex proposal.

APPLICATIONS AVAILABLE: July 19, 2002.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: September 17, 2002.

NOTIFICATION OF INTENT TO APPLY FOR LOCAL-FLEX: We will be able to develop a more efficient process for reviewing Local-Flex applications if we have a better understanding of the number of LEAs that intend to seek participation in the program. Therefore, we strongly encourage each potential applicant to send, by August 19, 2002, a notification of its intent to apply for participation in the Local-Flex program to the following address:

LocalFlex@ed.gov

The notification of intent to apply for participation in Local-Flex is optional and should not include information regarding the potential applicant's Local-Flex proposal. LEAs that fail to provide the notification may still submit an application by the application deadline.

SUPPLEMENTARY INFORMATION: Sections 6151 through 6156 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (P.L. 107-110), authorize the Secretary of Education to enter

into local flexibility demonstration agreements ("Local-Flex" agreements) with up to eighty LEAs. The Secretary will select Local-Flex LEAs on a competitive basis in accordance with the selection criteria contained in a notice published elsewhere in this issue of the Federal Register. The application requirements and a description of the application process are also provided in that notice.

The Secretary intends to select up to forty LEAs for participation in Local-Flex under this competition, and will select the remaining LEAs in a subsequent competition.

FOR FURTHER INFORMATION CONTACT: Ms. Milagros Lanauze.

Telephone: (202) 401-0039 or via Internet:

LocalFlex@ed.gov

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

APPLICATIONS: You may obtain a copy of the application on the Department's web site at:

<http://www.ed.gov/flexibility/#prog>

You may also obtain a copy of the application from the contact person identified under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document

You may view this document, as well as other Department of Education documents published in the Federal Register in text or Adobe Portable Document Format (PDF) on the Internet at the following site:

<http://www.ed.gov/legislation/FedRegister/>

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1-888-293-6498; or in the Washington DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the Federal Register. Free Internet access to the official version of the Federal Register and the Code of Federal Regulations is available on GPO access at:

www.access.gpo.gov/nara/index.html

PROGRAM AUTHORITY: Sections 6151 through 6156 of the ESEA,
as amended by the No Child Left Behind Act of 2001 (P.L.
107-110).

Dated: July 15, 2002

____/s/_____

Susan B. Neuman, Ed.D.

Assistant Secretary for
Elementary and Secondary
Education.

4000-01-U

DEPARTMENT OF EDUCATION

Local Flexibility Demonstration Program

AGENCY: Office of Elementary and Secondary Education,
Department of Education.

ACTION: Notice of Final Application Requirements,
Selection Criteria, and Application Process.

SUMMARY: The Secretary announces final application
requirements, selection criteria, and the application
process for the Local Flexibility (Local-Flex)
Demonstration Program.

EFFECTIVE DATE: August 19, 2002.

SUPPLEMENTARY INFORMATION:

On February 22, 2002, we published in the Federal Register (67 FR 8442-8444) a notice of proposed application requirements, selection criteria, and application process for the Local-Flex program, which is authorized under sections 6151 through 6156 of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110). This notice announces final application requirements, selection criteria, and the application process for the program.

Note: This notice does not solicit applications. A notice inviting applications under the Local-Flex competition is published separately in this issue of the Federal Register.

Analysis of Comments and Changes

Four parties submitted various comments in response to the notice of proposed application requirements, selection criteria, and application process.

Comment: One commenter suggested that we revise the language concerning the baseline academic data that local educational agencies (LEAs) would submit with their applications. This commenter suggested that LEAs should provide as their baseline the results under their adequate yearly progress (AYP) definition under the predecessor ESEA.

Discussion: Recognizing that States are in the process of developing State AYP definitions to meet the requirements in the reauthorized ESEA we are requesting LEAs to submit the best available disaggregated baseline data. These data should be based on assessments consistent with section 1111(b)(3) of the predecessor ESEA.

Changes: We have clarified that, in submitting baseline academic data, LEAs must provide student achievement data from assessments consistent with section 1111(b)(3) of the predecessor ESEA.

Comment: One commenter suggested that after revising its goals based on the State's new AYP definition, an LEA should be required to submit its revised goals to the Secretary.

Response: The Secretary had intended that an LEA be required to submit these revised goals as part of a proposed amendment to its Local-Flex agreement.

Changes: We have clarified that an LEA must not only revise its goals, as necessary, after the State develops the State AYP definition, but that it must also submit the revised goals to the Secretary as part of a proposed amendment to its Local-Flex agreement. We have also clarified that LEAs must submit any revised strategies for reaching those goals.

Comment: Two commenters expressed concern about the relationship between LEAs that have entered into Local-Flex agreements and State educational agencies (SEAs) that subsequently seek State-Flex authority under sections 6141 through 6144 of the ESEA. One of the commenters indicated that an SEA seeking State-Flex authority should not be required to incorporate Local-Flex agreements into its State-Flex proposal, and the other commenter said that an LEA should not be forced to incorporate its Local-Flex agreement into its SEA's State-Flex proposal.

Response: Under the legislation, the Secretary may enter into Local-Flex agreements only with LEAs in States that do not have State-Flex authority. Furthermore, if an SEA notified the Secretary, by May 8, 2002, that it intended to apply for State-Flex authority, an LEA in that State is precluded from applying for Local-Flex until the Department makes a final determination concerning the SEA's State-Flex application. The May 8, 2002 notification deadline essentially gave SEAs an opportunity to seek State-Flex before permitting their LEAs to seek Local-Flex authority.

The application process that we described in the February 28, 2002 Federal Register notice is consistent with the statutory provisions. Under this process, an SEA initially decided whether it intended to apply for State-Flex authority and to preclude its LEAs from entering into Local-Flex agreements with the Secretary. If an SEA chose not to notify the Department, by May 8, 2002, that it intended to apply for State-Flex, its LEAs may participate in the Local-Flex competition.

Once an LEA in a State has entered into a Local-Flex agreement, an SEA may subsequently receive State-Flex authority only if any LEA in the State with a Local-Flex agreement agrees to be part of the SEA's State-Flex proposal.

Changes: In the notice inviting applications published elsewhere in this issue of the Federal Register, we have clarified that if an LEA has entered into a Local-Flex agreement with the Secretary and its SEA later seeks to apply for State-Flex authority, the SEA may not force the LEA to be part of the State-Flex proposal. The SEA may seek State-Flex only if each of its LEAs that has a Local-Flex agreement with the Secretary agrees to be part of the SEA's submission. SEAs and LEAs are encouraged to work cooperatively to minimize potential disputes regarding the implementation of State-Flex and Local-Flex.

Comment: One commenter suggested that applicants be required to submit the following information to enable the Secretary to evaluate whether they are focusing on serving the needs of students most at risk of educational failure:

(1) The number and percentage of schools in the district that qualify for schoolwide programs; (2) The amount of local education funds spent per pupil at Title I schools compared to the per-pupil spending at non-Title I schools; and (3) Any formula the district would use to target consolidated Federal funds to students most at risk of education failure.

Discussion: An applicant must submit detailed baseline academic data and specific measurable goals, with annual

objectives, that it seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline data that are submitted. In addition, the applicant must propose specific strategies for reaching the stated goals. On the basis of the application requirements and the selection criteria that will be used for this competition, we will be able to focus Local-Flex agreements on LEAs serving the need of students most at risk of educational failure competition.

Changes: None.

Comment: One commenter suggested that each applicant be required to describe how its proposed Local-Flex plan will meet the general purposes of the programs included in the consolidation. This commenter also urged us to require each applicant to document parental involvement in the planning process, to explain how the applicant will continue to comply with all applicable civil rights requirements, and to include in its application a description of the accounting procedures and safeguards that it would employ to ensure proper disbursement of, and accounting for, Federal funds.

Discussion: In the February 22, 2002 Federal Register notice, we did not include all of the statutory application requirements. We did not believe that it was necessary to seek public comments on some of the more explicit requirements included in the legislation. However, all of the statutory application requirements, including those addressed in this notice, are discussed in the application package.

The comments referenced in the preceding paragraph concerning parental involvement and fiscal responsibility are addressed in the application package. We have made changes to the application requirements and selection criteria in this notice to address the comment concerning the general purposes of the programs included in the consolidations. With respect to the comment on civil rights compliance, all applicants, as mandated by the legislation, will be required to submit an assurance that they are complying with all applicable civil rights requirements.

Changes: We have modified the application requirements to state expressly that each applicant must, as part of its five-year proposal, describe how it will meet the general purposes of the programs that are consolidated. In addition, we have modified the "Quality of the Local-Flex

Plan” selection criterion to include a factor relating to the general purposes of the consolidated programs.

Comment: One commenter suggested that under the application requirements, migrant status should be listed as one of the subgroups by which the baseline academic data should be disaggregated.

Discussion: We do not agree because migrant status is not one of the required subgroups for determining AYP under Part A of Title I. Given that an LEA’s progress in implementing Local-Flex will be measured on the basis of its AYP status, we believe that it is important to obtain, at a minimum, disaggregated baseline data that reflect the AYP subgroups. While it is not mandatory, applicants may also submit other disaggregated data, such as migrant status, which are required for reporting assessment results under section 1111(b) (3) of the reauthorized ESEA.

Changes: None.

Comment: One commenter suggested that under the “Quality of the Local-Flex Plan” selection criteria, we add a factor about the extent to which the LEA included parents in the development of its Local-Flex proposal, particularly parents of subgroups of significant size.

Discussion: We agree that the selection criteria should include a factor relating to parental involvement in the

development of the Local-Flex proposals, particularly the parents of students most at risk of educational failure.

Changes: We have modified the "Quality of the Local-Flex Plan" criterion to add a factor relating to the involvement of parents, particularly the parents of students most at risk of educational failure, in the development of the Local-Flex proposal.

Comment: One commenter stated that the overall application process should outline a process for reviewing and deciding issues of continued participation in Local-Flex if the LEA does not meet its stated targets for student achievement over a two- to three-year period.

Discussion: The legislation states that the Secretary must, after providing notice and an opportunity for a hearing, promptly terminate a Local-Flex agreement if an LEA fails to make adequate yearly progress for two consecutive years. The legislation also provides that, after providing notice and an opportunity for a hearing, the Secretary may terminate a Local-Flex agreement if there is evidence that an LEA has failed to comply with the terms of the agreement.

The Secretary does not believe that it is necessary to issue, at this time, additional guidance on the termination of a Local-Flex agreement.

Changes: None.

I. APPLICATION REQUIREMENTS

In order that the Secretary can select Local-Flex participants in accordance with section 6151 of the ESEA, Local-Flex applicants must submit the following information, together with the other information set forth in the legislation and outlined in the Local-Flex application package.

(a) Baseline academic data. Each LEA seeking to enter into a Local-Flex agreement with the Secretary must provide, as part of its proposed agreement, student achievement data for the most recent available school year, including data from assessments under section 1111(b)(3) of the predecessor ESEA, as well as descriptions of achievement trends. To the extent possible, an LEA must provide data for both mathematics and reading or language arts, and the LEA must disaggregate the results by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged. (These are the categories, among others, by which an LEA will disaggregate data for determining AYP under section 1111(b)(2) of the reauthorized ESEA. Furthermore, these are the categories, among others, by which an LEA had to disaggregate data for reporting

assessment results under section 1111(b)(3) of the predecessor ESEA.)

In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, LEAs may also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators should also be disaggregated.

(b) Specific, measurable education goals. Each applicant must submit a five-year Local-Flex plan that contains specific, measurable educational goals, with annual objectives, that the LEA seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

At the time an LEA submits its initial proposed Local-Flex agreement, the goals in its proposal will not have to

relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as its State definition of AYP is submitted to and approved by the Secretary, each LEA that has entered into a Local-Flex agreement must revise its goals, as necessary, based on that definition. (Note: State definitions of AYP under section 1111(b)(2) of the ESEA must be submitted no later than January 31, 2003, and implemented by the end of the 2002-2003 school year.) The LEA must submit its revised goals as part of a proposed amendment to its Local-Flex agreement.

(c) Strategies for meeting its goals and the general purposes of the consolidated programs. Each applicant must propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan must describe how the applicant will consolidate and use funds received under Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment); Subpart 1 of Part D of Title II (Enhancing Education Through Technology); Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities); and Subpart 1 of Part A of Title V (Innovative Programs).

As part of its five-year plan, an applicant must also describe how it will meet the general purposes of the

programs that are consolidated under the Local-Flex agreement. In particular, an applicant must describe how its proposed plan would --

(i) Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms (Title II, Part A);

(ii) Improve teaching and student academic achievement through the use of technology in schools (Title II, Part D);

(iii) Support programs that prevent violence in and around schools and that prevent the illegal use of alcohol, tobacco, and drugs (Title IV, Part A);

(iv) Support local education reform efforts that are consistent with and support statewide education reform efforts (Title V, Part A).

Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA must modify, as appropriate, the strategies that it would implement to reach its revised educational goals. The LEA must submit these modifications as part of a proposed amendment to its Local-Flex agreement.

II. SELECTION CRITERIA

The Secretary will use the following criteria to select the LEAs with which he will enter into Local-Flex agreements:

(a) Identification of the Need for the Local-Flex Agreement. (25 points) The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement. In determining the quality of the description and analysis, the Secretary considers the following factors:

(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective, valid, and reliable, and provide disaggregated results.

(ii) The extent to which the proposal identifies achievement gaps among different groups of students.

(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.

(iv) The extent to which the additional flexibility provided under the Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(b) Quality of the Educational Goals. (25 points) The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement. In determining the quality of the LEA's goals, the Secretary considers the following factors:

(i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable.

(ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement.

(iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators.

(iv) The extent to which the goals support the intent and purposes of the Local-Flex program.

(c) Quality of the Local-Flex Plan. (35 points) The Secretary considers the quality of the LEA's Local-Flex plan. In determining the quality of the Local-Flex plan, the Secretary considers the following factors:

(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.

(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.

(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.

(iv) The extent to which the LEA demonstrates that it will meet the general purposes of the programs that would be consolidated under its Local-Flex agreement;

(v) The extent to which the LEA included parents, especially parents of children most at risk of educational failure, in the development of the Local-Flex proposal.

(d) Adequacy of the Resources. (15 points) The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement. In considering the adequacy of the resources, the Secretary considers the following factors:

(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.

(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will

be integrated with other resources to meet the goals of the proposed agreement.

(iii) The extent to which costs that the LEA will incur under the Local-Flex agreement are reasonable in relationship to the goals that will be achieved under the agreement.

III. APPLICATION PROCESS

The Secretary will conduct two separate Local-Flex competitions. A notice inviting applications for the initial group of Local-Flex LEAs is published elsewhere in this issue of the Federal Register. Depending on the number and quality of the applications submitted, the Secretary intends to select up to 40 LEAs with which to enter into Local-Flex agreements during the initial competition. The Secretary will reserve the remaining Local-Flex slots for a subsequent Local-Flex competition.

FOR FURTHER INFORMATION CONTACT: Ms. Milagros Lanauze.

Telephone: (202) 401-0039 or via Internet:

LocalFlex@ed.gov

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Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

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<http://www.ed.gov/legislation/FedRegister/>

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www.access.gpo.gov/nara/index.html

PROGRAM AUTHORITY: Sections 6151 through 6156 of the ESEA,
as amended by the No Child Left Behind Act of 2001 (P.L.
107-110).

Dated: July 15, 2002

_____/s/_____

Susan B. Neuman, Ed.D.

Assistant Secretary for
Elementary and Secondary
Education.

PROGRAM STATUTE

TITLE VI, PART A

Subpart 3—State and Local Flexibility Demonstration

SEC. 6131. SHORT TITLE.

This subpart may be cited as the ‘State and Local Flexibility Demonstration Act’.

SEC. 6132. PURPOSE.

The purpose of this subpart is to create options for selected State educational agencies and local educational agencies—

- (1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;
- (2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;
- (3) to better empower parents, educators, administrators, and schools to effectively address the needs of their children and students;
- (4) to give participating State educational agencies and local educational agencies greater flexibility in determining how to increase their students’ academic achievement and implement education reforms in their schools;
- (5) to eliminate barriers to implementing effective State and local education reform, while preserving the goals of opportunity for all students and accountability for student progress;
- (6) to hold participating State educational agencies and local educational agencies accountable for increasing the academic achievement of all students, especially disadvantaged students; and
- (7) to narrow achievement gaps between the lowest and highest achieving groups of students so that no child is left behind.

SEC. 6133. GENERAL PROVISION.

For purposes of this subpart, any State that is one local educational agency shall be considered a State educational agency and not a local educational agency.

CHAPTER B—LOCAL FLEXIBILITY DEMONSTRATION

SEC. 6151. LOCAL FLEXIBILITY DEMONSTRATION AGREEMENTS.

(a) **AUTHORITY.** —Except as otherwise provided in this chapter, the Secretary shall, on a competitive basis, enter into local flexibility demonstration agreements—

- (1) with local educational agencies that submit approvable proposed agreements under subsection (c) and that are selected under subsection (b); and
- (2) under which those agencies may consolidate and use funds in accordance with section 6152.

(b) **SELECTION OF LOCAL EDUCATIONAL AGENCIES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary shall enter into local flexibility demonstration agreements under this chapter with not more than 80 local educational agencies. Each local educational agency shall be selected on a competitive basis from among those local educational agencies that—

(A) submit a proposed local flexibility demonstration agreement under subsection (c) to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement—

(i) has a substantial promise of assisting the local educational agency in meeting the State's definition of adequate yearly progress, advancing the education priorities of the local educational agency, meeting the general purposes of the programs included under this chapter and the purposes of this part, improving student achievement, and narrowing achievement gaps in accordance with section 1111(b);

(ii) meets the requirements of this chapter; and

(iii) contains a plan to consolidate and use funds in accordance with section 6152 in order to meet the State's definition of adequate yearly progress and the local educational agency's specific, measurable goals for improving student achievement and narrowing achievement gaps; and

(B) have consulted and involved parents and other educators in the development of the proposed local flexibility demonstration agreement.

(2) GEOGRAPHIC DISTRIBUTION.—

(A) INITIAL AGREEMENTS.—The Secretary may enter into not more than three local flexibility demonstration agreements under this chapter with local educational agencies in each State that does not have a grant of flexibility authority under chapter A.

(B) URBAN AND RURAL AREAS.—If more than three local educational agencies in a State submit approvable local flexibility demonstration agreements under this chapter, the Secretary shall select local educational agencies with which to enter into such agreements in a manner that ensures an equitable distribution among such agencies serving urban and rural areas.

(C) PRIORITY OF STATES TO ENTER INTO STATE FLEXIBILITY DEMONSTRATION AGREEMENTS.—Notwithstanding any other provision of this part, a local educational agency may not seek to enter into a local flexibility demonstration agreement under this chapter if that agency is located in a State for which the State educational agency—

(i) has, not later than 4 months after the date of enactment of the No Child Left Behind Act of 2001, notified the Secretary of its intent to apply for a grant of flexibility authority under chapter A and, within such period of time as the Secretary may establish, is provided with such authority by the Secretary; or

(ii) has, at any time after such period, been granted flexibility authority under chapter A.

(c) REQUIRED TERMS OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—Each local flexibility demonstration agreement entered into with the Secretary under this chapter shall contain each of the following terms:

(1) DURATION.—The local flexibility demonstration agreement shall be for a term of 5 years.

(2) APPLICATION OF PROGRAM REQUIREMENTS.—The local flexibility demonstration agreement shall provide that no requirements of any program described in section 6152 and included by a local educational agency in the

scope of its agreement shall apply to that agency, except as otherwise provided in this chapter.

(3) LIST OF PROGRAMS.—The local flexibility demonstration agreement shall list which of the programs described in section 6152 are included in the scope of the agreement.

(4) USE OF FUNDS TO IMPROVE STUDENT ACHIEVEMENT.—

The local flexibility demonstration agreement shall contain a 5-year plan describing how the local educational agency intends to consolidate and use the funds from programs included in the scope of the agreement for any educational purpose authorized under this Act to advance the education priorities of the local educational agency, meet the general purposes of the included programs, improve student achievement, and narrow achievement gaps in accordance with section 1111(b).

(5) LOCAL INPUT.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will provide parents, teachers, and representatives of schools with notice and an opportunity to comment on the proposed terms of the local flexibility demonstration agreement.

(6) FISCAL RESPONSIBILITIES.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the agreement.

(7) CIVIL RIGHTS.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

(8) PRIVATE SCHOOL PARTICIPATION.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency agrees that in consolidating and using funds under the agreement—

(A) the local educational agency, will provide for the equitable participation of students and professional staff in private schools consistent with section 9501; and

(B) that sections 9502, 9503, and 9504 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 9501.

(9) SUPPLANTING.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 6152 only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

(10) ANNUAL REPORTS.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency shall, not later than 1 year after the date on which the Secretary enters into the agreement, and annually thereafter during the term of the agreement, disseminate widely to parents and the general public, transmit to the Secretary, and the State educational agency for the State in which the local educational agency is located,

distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how the local educational agency used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

(d) PEER REVIEW.—The Secretary shall—

(1) establish a peer review process to assist in the review of proposed local flexibility demonstration agreements under this chapter; and

(2) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.

(e) AMENDMENT TO PERFORMANCE AGREEMENT.—

(1) IN GENERAL.—In each of the following circumstances, the Secretary shall amend a local flexibility demonstration agreement entered into with a local educational agency under this chapter:

(A) REDUCTION IN SCOPE OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—Not later than 1 year after entering into a local flexibility demonstration agreement, the local educational agency seeks to amend the agreement to remove from the scope any program described in section 6152.

(B) EXPANSION OF SCOPE OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—Not later than 1 year after entering into the local flexibility demonstration agreement, a local educational agency seeks to amend the agreement to include in its scope any additional program described in section 6251 or any additional achievement indicators for which the local educational agency will be held accountable.

(2) APPROVAL AND DISAPPROVAL.—

(A) DEEMED APPROVAL.—A proposed amendment to a local flexibility demonstration agreement pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this chapter.

(B) DISAPPROVAL.—The Secretary shall not finally disapprove the proposed amendment, except after giving the local educational agency notice and an opportunity for a hearing.

(C) NOTIFICATION.—If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this chapter, the Secretary shall—

(i) give the local educational agency notice and an opportunity for a hearing; and
(ii) notify the local educational agency of the finding of noncompliance and, in such notification, shall—

(I) cite the specific provisions in the proposed amendment that are not in compliance; and

(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

(D) RESPONSE.—If the local educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

(ii) the expiration of the 120-day period described in subparagraph (A).

(E) FAILURE TO RESPOND.—If the local educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

(3) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM

AGREEMENT.—Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a local flexibility demonstration agreement shall apply to the use of funds made available under the program by the local educational agency.

SEC. 6152. CONSOLIDATION AND USE OF FUNDS.

(a) IN GENERAL.—

(1) AUTHORITY.—Under a local flexibility demonstration agreement entered into under this chapter, a local educational agency may consolidate Federal funds made available to the agency under the provisions listed in subsection (b) and use such funds for any educational purpose permitted under this Act.

(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this chapter, a local educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the agency.

(b) ELIGIBLE PROGRAMS.—Program funds made available to local educational agencies on the basis of a formula under the following provisions may be consolidated and used under subsection (a):

(1) Subpart 2 of part A of title II.

(2) Subpart 1 of part D of title II.

(3) Subpart 1 of part A of title IV.

(4) Subpart 1 of part A of title V.

SEC. 6153. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this chapter may use for administrative purposes not more than 4 percent of the total amount of funds allocated to the agency under the programs included in the scope of the agreement.

SEC. 6154. PERFORMANCE REVIEW AND PENALTIES.

(a) MIDTERM REVIEW.—

(1) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS.—If, during the term of a local flexibility demonstration agreement, a local educational agency fails to

make adequate yearly progress for 2 consecutive years, the Secretary shall, after notice and opportunity for a hearing, promptly terminate the agreement.

(2) **NONCOMPLIANCE.**—The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide information as provided for in paragraph (3)), terminate a local flexibility demonstration agreement under this chapter if there is evidence that the local educational agency has failed to comply with the terms of the agreement.

(3) **EVIDENCE.**—If a local educational agency believes that the Secretary's determination under this subsection is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final early termination determination.

(b) **FINAL REVIEW.**—If, at the end of the 5-year term of a local flexibility demonstration agreement entered into under this chapter, the local educational agency has not met the requirements described in section 6151(c), the Secretary may not renew the agreement under section 6155 and, beginning on the date on which such term ends, the local educational agency shall be required to comply with each of the program requirements in effect on such date for each program included in the local flexibility demonstration agreement.

SEC. 6155. RENEWAL OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.

(a) **IN GENERAL.**—Except as provided in section 6154 and in accordance with this section, the Secretary shall renew for one additional 5-year term a local flexibility demonstration agreement entered into under this chapter if the local educational agency has met, by the end of the original term of the agreement, the requirements described in section 6151(c).

(b) **NOTIFICATION.**—The Secretary may not renew a local flexibility demonstration agreement under this chapter unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking the renewal notifies the Secretary of its intention to renew.

(c) **EFFECTIVE DATE.**—A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal provides to the Secretary all data required under the agreement, whichever is later.

SEC. 6156. REPORTS.

(a) **TRANSMITTAL TO CONGRESS.**—Not later than 60 days after the Secretary receives a report described in section 6151(b)(10), the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(b) **LIMITATION.**—A State in which a local educational agency that has a local flexibility demonstration agreement is located may not require such local educational agency to provide any application information with respect to the programs included within the scope of that agreement other than that information that is required to be included in the report described in section 6151(b)(10).

GENERAL EQUITABLE PARTICIPATION GUIDANCE

Section 6151(c)(8) of the ESEA requires an LEA, in consolidating and using funds under its Local-Flex agreement, to provide for the equitable participation of private school students and staff consistent with section 9501 of the ESEA. Sections 9502, 9503, and 9504 apply to all services and assistance provided with the consolidated funds.

To meet this requirement, an LEA must first determine the amount of funds that are generated by private school students under the programs that the LEA plans to consolidate. (See the special provision in section 9501(b)(3) regarding Part A of Title II.) The LEA must reserve these funds for the benefit of private school students and teachers. Thus, the total amount of funding that is used for the benefit of private school students and teachers is not affected by an LEA's participation in Local-Flex.

An LEA must engage in timely and meaningful consultation with private school officials to determine how these reserved funds should be expended for the benefit of private school students and teachers. These funds may be used for an authorized activity under any ESEA program in which private school students and teachers are eligible to receive benefits, and need not be the same activities or programs for which an LEA uses its consolidated funds for public schools.

SECTION D

PREPARING AN APPLICATION

INTRODUCTION TO THE LOCAL FLEXIBILITY DEMONSTRATION PROGRAM

THE CLOSING DATE FOR THIS PROGRAM IS SEPTEMBER 17, 2002.

We strongly encourage each potential applicant to send, by August 19, 2002, a notification of its intent to apply for funding to LocalFlex@ed.gov. The notification of intent to apply for funding is optional and should not include information regarding the application. Eligible applicants that fail to provide the notification may still submit an application by the closing date.

Under the Local-Flex program, the Secretary will enter into Local-Flex agreements with local educational agencies (LEAs) that submit high-quality Local-Flex proposals, giving these LEAs the flexibility to consolidate certain Federal formula grant funds in order to assist them in meeting the State's definition of adequate yearly progress (AYP) and attaining specific, measurable goals for improving student achievement and narrowing achievement gaps. The LEA proposal, if approved, would form the basis of the Local-Flex agreement.

The legislation permits participating LEAs to consolidate formula grant funds under the following programs:

- Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment)
- Subpart 1 of Part D of Title II (Ed Tech)
- Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities)
- Subpart 1 of Part A of Title V (Innovative Programs).

The consolidated funds may be used for any authorized ESEA activity, consistent with the purposes of the Local-Flex program and the LEA's Local-Flex agreement. The LEA must still meet the general purposes of the programs included in the consolidation.

The Secretary will select participating LEAs on a competitive basis using a peer review process. By statute, an LEA may not apply for Local-Flex if its State educational agency (SEA) notified the Department, by May 8, 2002, that it intends to seek State-Flex authority. LEAs in the following States may *not* apply for Local-Flex because their SEAs provided such notification:

Alabama, Arizona, Colorado, Delaware, Florida, Illinois, Massachusetts, Nebraska, Pennsylvania, Tennessee, and Texas

An LEA in one of the above-referenced States may seek to enter into a performance agreement with its SEA as part of the SEA's State-Flex submission to the Department.

LEAs in other States are eligible to apply under this competition. The legislation permits the Secretary to enter into Local-Flex agreements with up to eighty LEAs. There can be no more than three Local-Flex LEAs per State.

DISCUSSION OF APPLICATION REQUIREMENTS

To be considered for participation in the Local-Flex program, you must submit a five-year Local-Flex proposal that includes the following information:

- (1) A completed cover page. (The cover page form is provided on page D-13 of this application package.)
- (2) A narrative that addresses the selection criteria (see pages D-6 and D-7) and contains the following information:

(a) Baseline academic data

Your Local-Flex proposal must include student achievement data for the most recent available school year, including data from assessments consistent with section 1111(b)(3) of the predecessor ESEA, as well as descriptions of achievement trends. To the extent possible, you must provide data for both mathematics and reading or language arts, and you must disaggregate the results by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged.

In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, you may also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators should also be disaggregated.

(b) Specific, measurable education goals

Your Local-Flex proposal must contain specific, measurable educational goals, with annual objectives, that you seek to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

At this time, the goals in your proposal do not have to relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as your State definition of AYP is submitted to and approved by the Secretary, you must revise your goals, as necessary, based on that definition. (NOTE: State definitions of AYP under section 1111(b)(2) of the ESEA must be

submitted to the Department no later than January 31, 2003 and implemented by the end of the 2002-2003 school year.) You must submit your revised goals as part of a proposed amendment to its Local-Flex agreement.

(c) Strategies for meeting the goals and the general purposes of the consolidated programs

(i) Strategies for meeting the goals

You must propose a five-year plan that contains specific strategies for reaching your stated goals. In particular, you must describe how you will consolidate and use funds received under Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment); Subpart 1 of Part D of Title II (Enhancing Education Through Technology); Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities); and Subpart 1 of Part A of Title V (Innovative Programs).

In your plan, you should also include a five-year general budget outline for the activities that you are proposing to support. The budget outline should show both Federal and other resources that will be used to support these activities, and it should reflect administrative costs. The budget outline should be accompanied by a brief narrative rationale. In addition, your submission must include specific information on the amount of FY2002 funds that you propose to consolidate under the agreement. See Cover Page in page D-13.

Once your State definition of AYP has been established and you have modified your goals, as necessary, to reflect that definition, you must modify, as appropriate, the strategies that you would implement to reach the revised educational goals. You must submit these modifications as part of a proposed amendment to your Local-Flex agreement.

(ii) Description of how you will meet the general purposes of the consolidated programs

You must describe how your Local-Flex proposal meets the general purposes of the programs included in the consolidation. In particular, you must describe how your proposed plan would:

- Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms. (Title II, Part A)
- Improve teaching and student academic achievement through the use of technology in schools. (Title II, Part D)

- Support programs that prevent violence in and around schools, and that prevent the illegal use of alcohol, tobacco, and drugs. (Title IV, Part A)
- Support local education reform efforts that are consistent with and support statewide education reform efforts. (Title V, Part A)

(3) Assurances

You must provide the assurances contained on pages D-14 and D-15 of this application package. (One of these assurances related to compliance with the equitable participation requirements. Guidance on these requirements is provided in page C-32).

SELECTION CRITERIA

The Secretary will use the following criteria to select the LEAs with which he will enter into Local-Flex agreements:

(a) Identification of the Need for the Local-Flex Agreement. (25 points) The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement.

In determining the quality of the description and analysis, the Secretary considers the following factors:

(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective, valid, and reliable, and provide disaggregated results.

(iii) The extent to which the proposal identifies achievement gaps among different groups of students.

(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.

(iv) The extent to which the additional flexibility provided under the Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(b) Quality of the Educational Goals. (25 points) The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement.

In determining the quality of the LEA's goals, the Secretary considers the following factors:

(i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable.

(ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement.

(iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators.

(iv) The extent to which the goals support the intent and purposes of the Local-Flex program.

(c) Quality of the Local-Flex Plan. (35 points) The Secretary considers the quality of the LEA's Local-Flex plan.

In determining the quality of the Local-Flex plan, the Secretary considers the following factors:

(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.

(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.

(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.

(iv) The extent to which the LEA demonstrates that it will meet the general purposes of the programs that would be consolidated under its Local-Flex agreement;

(v) The extent to which the LEA included parents, especially parents of children most at risk of educational failure, in the development of the Local-Flex proposal.

(d) Adequacy of the Resources. (15 points) The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement.

In considering the adequacy of the resources, the Secretary considers the following factors:

(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.

(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will be integrated with other resources to meet the goals of the proposed agreement.

(iii) The extent to which costs that the LEA will incur under the Local-Flex agreement are reasonable in relationship to the goals that will be achieved under the agreement.

GUIDELINES FOR PREPARING THE PROPOSED AGREEMENT

- Your Local-Flex proposal should address all application requirements and selection criteria. The chart in pages D-9 through D-12 was designed to help you understand how the selection criteria and application requirements are related to each other. The chart also contains a checklist to assist you in determining whether you have addressed key topics. The checklist is only meant to be a guideline, and is not exhaustive. You might need to discuss additional relevant items that may be useful in judging the quality of the proposed agreement; some checklist items may not be pertinent to your particular proposed agreement. *We recommend that you organize information around the Project Selection Criteria.*
- Coherence is very important. The selection criteria reflect the expectation that the proposed student achievement goals for the agreement be based on the need(s) demonstrated through the baseline data, and that the 5-year plan to implement the agreement be directed at helping the applicant meet those student achievement goals.
- Although we have not established a page limit, we encourage you to keep your application concise. We recommend that you use double-spaced pages with a 12-point or larger size font with one-inch margins at the top, bottom, and both sides, and to number pages consecutively. Any appendices to the narrative should be highly relevant to the proposal.
- We recommend that you include a table of contents as part of your Local-Flex proposal.

Chart KEY TO LOCAL-FLEX REQUIREMENTS

<p>SELECTION CRITERION:</p> <p>(a) <u>Identification of the Need for the Local-Flex Agreement.</u> (25 points) The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement. In determining the quality of the description and analysis, the Secretary considers the following factors:</p> <p>(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective, valid, and reliable, and provide disaggregated results.</p> <p>(ii) The extent to which the proposal identifies achievement gaps among different groups of students.</p> <p>(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.</p> <p>(iv) The extent to which the additional flexibility provided under the Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.</p>	<p>APPLICATION REQUIREMENT:</p> <p>(a) <u>Baseline academic data.</u> Each LEA seeking to enter into a Local-Flex agreement with the Secretary must provide, as part of its proposed agreement, student achievement data for the most recent available school year, including data from assessments consistent with section 1111(b)(3) of the predecessor ESEA, as well as descriptions of achievement trends. To the extent possible, an LEA must provide data for both mathematics and reading or language arts, and the LEA must disaggregate the results by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged. (These are the categories, among others, by which an LEA will disaggregate data for determining AYP under section 1111(b)(2) of the reauthorized ESEA. Furthermore, these are the categories, among others, by which an LEA had to disaggregate data for reporting assessment results under section 1111(b)(3) of the predecessor ESEA.)</p> <p>In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, LEAs may also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators should also be disaggregated.</p>
<p>NARRATIVE CHECKLIST:</p> <ul style="list-style-type: none"> • Achievement data for the most recent available school year; including (to the extent available): <ul style="list-style-type: none"> ○ Actual scores and/or number of students at different achievement levels, for math and reading/language arts ○ Data aggregated for all students, plus disaggregated by major racial/ethnic groups, English proficiency status, disability status, economically disadvantaged status ○ Data disaggregated by other categories, such as gender, migrant status • Data from other pertinent academic indicators (e.g., retention, dropout, etc.) disaggregated where possible. • Analysis/description of achievement trends <ul style="list-style-type: none"> ○ Math and language arts ○ For different student subgroups • Analysis/descriptions of achievement gaps • Short discussion of the characteristics of the schools in the LEA, including achievement trends • Summaries of achievement data for schools to be targeted by the agreement. • Identification of student groups that will be the focus of the activities under this agreement • Identification of schools that will be the focus of the activities under this agreement • Discussion of the LEA's need for additional flexibility <ul style="list-style-type: none"> ○ To serve targeted students and help them meet achievement standards ○ To help schools within the LEA, and the LEA itself, meet the State's definition of adequate yearly progress • Discussion and evidence of objectivity, validity, reliability of the data, including information about the proportion of students represented by the data <p style="text-align: center;">The discussion of need and baseline data is clearly related to the goals and objectives for the agreement, and to the plan.</p>	

<p>SELECTION CRITERION:</p> <p>(b) <u>Quality of the Educational Goals.</u> (25 points) The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement. In determining the quality of the LEA's goals, the Secretary considers the following factors:</p> <ul style="list-style-type: none"> (i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable. (ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement. (iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators. (iv) The extent to which the goals support the intent and purposes of the Local-Flex program. 	<p>APPLICATION REQUIREMENT:</p> <p>(b) <u>Specific, measurable education goals.</u> Each applicant must submit a five-year Local-Flex plan that contains specific, measurable educational goals, with annual objectives, that the LEA seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.</p> <p>(At the time an LEA submits its initial proposed Local-Flex agreement, the goals in its proposal will not have to relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as its State definition of AYP is submitted to and approved by the Secretary, each LEA that has entered into a Local-Flex agreement must revise its goals, as necessary, based on that definition. (Note: State definitions of AYP under section 1111(b)(2) of the ESEA must be submitted no later than January 31, 2003, and implemented by the end of the 2002-2003 school year. The LEA must submit its revised goals as part of a proposed amendment to its Local-Flex agreement).)</p>
<p>NARRATIVE CHECKLIST:</p> <ul style="list-style-type: none"> ○ Goals are <ul style="list-style-type: none"> ○ specific ○ clearly stated ○ measurable ○ contain annual objectives ○ related to improving student achievement and narrowing achievement gaps ○ connected to the baseline data ○ Goals/objectives represent significant improvement in student achievement and narrowing of achievement gaps ○ Goals clearly convey the degree of improvement sought in student academic achievement ○ The goals and objectives clearly address the needs identified through the baseline data and are connected to the 5-year plan. <p>Discussion of how the goals/objectives for the proposed Local-Flex agreement support the intent and purposes of the Local-Flex program</p>	

<p>SELECTION CRITERION:</p> <p>(c) <u>Quality of the Local-Flex Plan.</u> (35 points) The Secretary considers the quality of the LEA's Local-Flex plan. In determining the quality of the Local-Flex plan, the Secretary considers the following factors:</p> <p>(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.</p> <p>(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.</p> <p>(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.</p> <p>(iv) The extent to which the LEA demonstrates that it will meet the general purposes of the programs that would be consolidated under its Local-Flex agreement;</p> <p>(v) The extent to which the LEA included parents, especially parents of children most at risk of educational failure, in the development of the Local-Flex proposal.</p>	<p>APPLICATION REQUIREMENT:</p> <p>(c) <u>Strategies for meeting its goals and the general purposes of the consolidated programs.</u> (NOTE: This application requirement relates to both criteria (c) <i>Quality of the Local-Flex Plan</i> and (d) <i>Adequacy of Resources</i>. See page D-12). Each applicant must propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan must describe how the applicant will consolidate and use funds received under Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment); Subpart 1 of Part D of Title II (Enhancing Education Through Technology); Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities); and Subpart 1 of Part A of Title V (Innovative Programs).</p> <p>As part of its five-year plan, an applicant must also describe how it will meet the general purposes of the programs that are consolidated under the Local-Flex agreement. In particular, an applicant must describe how its proposed plan would –</p> <p>(i) Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms (Title II, Part A);</p> <p>(ii) Improve teaching and student academic achievement through the use of technology in schools (Title II, Part D);</p> <p>(iii) Support programs that prevent violence in and around schools and that prevent the illegal use of alcohol, tobacco, and drugs (Title IV, Part A);</p> <p>(iv) Support local education reform efforts that are consistent with and support statewide education reform efforts (Title V, Part A).</p> <p>(Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA must modify, as appropriate, the strategies that it would implement to reach its revised educational goals. The LEA must submit these modifications as part of a proposed amendment to its Local-Flex agreement).</p>
<p>NARRATIVE CHECKLIST:</p> <ul style="list-style-type: none"> • Plan covers 5 years of agreement • Plan identifies which Federal programs are to be consolidated and how the funds will be used to implement the 5-year plan • Plan discusses the strategies to be used to attain the goals • Plan describes activities to be undertaken, their purposes, and their intended beneficiaries • Plan provides timelines for implementing activities • Discussion of how activities target needs identified through the baseline data and the goals and objectives for the agreement • Plan incorporates the use of achievement data to monitor progress, including <ul style="list-style-type: none"> ○ identification of data, in particular achievement data, that will be used to monitor progress toward goals established for the agreement ○ strategies/tasks for collection/analysis of data for monitoring progress ○ strategies for preparing and submitting annual reports and associated requirements • Discussion of how parents, in particular, parents of children most at risk of educational failure, were included in the development of the Local-Flex proposal. • Discussion of how other members of the public were involved in the development of the plan • Plan is coherent and represents a sustained approach for reaching goals • Discussion of the strategies/activities undertaken as part of the 5-year plan will meet the general purposes of the program to be consolidated <ul style="list-style-type: none"> • Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms. (Title II, Part A) • Improve teaching and student academic achievement through the use of technology in schools. (Title II, Part D) • Support programs that prevent violence in and around schools, and that prevent the illegal use of alcohol, tobacco, and drugs. (Title IV, Part A) • Support local education reform efforts that are consistent with and support statewide education reform efforts. (Title V, Part A) 	

<p>SELECTION CRITERION:</p> <p>(d) <u>Adequacy of the Resources.</u> (15 points) The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement. In considering the adequacy of the resources, the Secretary considers the following factors:</p> <p>(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.</p> <p>(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will be integrated with other resources to meet the goals of the proposed agreement.</p> <p>(iii) The extent to which costs that the LEA will incur under the Local-Flex agreement are reasonable in relationship to the goals that will be achieved under the agreement.</p>	<p>APPLICATION REQUIREMENT:</p> <p>(c) <u>Strategies for meeting its goals and the general purposes of the consolidated programs.</u> (NOTE: This application requirement relates to both criteria (c) <i>Quality of the Local-Flex Plan</i> and (d) <i>Adequacy of Resources</i>. See page D-11). Each applicant must propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan must describe how the applicant will consolidate and use funds received under Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment); Subpart 1 of Part D of Title II (Enhancing Education Through Technology); Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities); and Subpart 1 of Part A of Title V (Innovative Programs).</p> <p>As part of its five-year plan, an applicant must also describe how it will meet the general purposes of the programs that are consolidated under the Local-Flex agreement. In particular, an applicant must describe how its proposed plan would –</p> <ul style="list-style-type: none"> (i) Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms (Title II, Part A); (ii) Improve teaching and student academic achievement through the use of technology in schools (Title II, Part D); (iii) Support programs that prevent violence in and around schools and that prevent the illegal use of alcohol, tobacco, and drugs (Title IV, Part A); (iv) Support local education reform efforts that are consistent with and support statewide education reform efforts (Title V, Part A). <p>(Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA must modify, as appropriate, the strategies that it would implement to reach its revised educational goals. The LEA must submit these modifications as part of a proposed amendment to its Local-Flex agreement).</p>
<p>NARRATIVE CHECKLIST:</p> <ul style="list-style-type: none"> •List of Federal funds to be consolidated (programs and estimated amounts), over 5 years •5-year budget outline for proposed activities to be funded with Federal and other resources, with narrative (include administrative costs) •Discussion reflects why the funds supporting activities over the 5 year plan are sufficient and reasonable 	

LOCAL-FLEX APPLICATION COVER PAGE

We propose to enter into a Local-Flexibility Demonstration Agreement with the US Department of Education to assist us in meeting our State's definition of adequate yearly progress and attaining specific, measurable goals for improving student achievement and narrowing achievement gaps.

LEA NAME

LEA ADDRESS:

LEA NCES ID*:

LEA CONTACT:

ADDRESS:

PHONE:

FAX:

E-MAIL:

PROGRAMS THE APPLICANT PROPOSES TO CONSOLIDATE UNDER THE LOCAL-FLEX AGREEMENT:

Program Included (check)	Program	FY2002 Formula amount to be consolidated	FY2002 Total formula amount received by the LEA
<input type="checkbox"/>	Subpart 2 of Part A of Title II Teacher and Principal Training and Recruiting		
<input type="checkbox"/>	Subpart 1 of Part D of Title II Enhancing Education through Technology		
<input type="checkbox"/>	Subpart 1 of Part A of Title IV Safe and Drug-Free Schools and Communities		
<input type="checkbox"/>	Subpart 1 of Part A of Title V Innovative Programs		

(Note: An LEA may spend no more than 4% of the total amount of funds that are consolidated for administrative purposes).

Authorized Representative (*Please type or print name clearly.*)

Title: _____

Tel. #: () _____ - _____ Fax #: () _____ - _____

E-Mail Address: _____

Signature of Authorized Representative:

_____ Date: ____/____/____

*If you don't know your NCES ID number, you may search the following website to obtain it:
<http://www.nces.ed.gov/ccdweb/school/index.asp>

LOCAL-FLEX ASSURANCES

Through our duly authorized representative, we hereby assure that:

- We have provided parents, teachers, and representatives of schools with notice and an opportunity to comment on the proposed terms of the Local-Flex agreement.
- We will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the agreement.
- We will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using funds under the agreement.
- In consolidating and using funds under the agreement, we will provide for the equitable participation of students and professional staff in private schools consistent with section 9501 of the Elementary and Secondary Education Act, as amended (ESEA), and sections 9502, 9503, and 9504 will apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 9501.
- We will use funds consolidated under section 6152 of the ESEA only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.
- Not later than one year after the date on which we enter into the Local-Flex agreement, and annually thereafter during the term of the agreement, we will disseminate widely to parents and the general public, submit to the U.S. Department of Education and our State educational agency, distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how we used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.
- We will cooperate fully in any evaluation of our Local-Flex program by the US Department of Education.

- Not later than one year after the date on which we enter into the Local-Flex agreement, we will provide the U.S. Department of Education with revised education goals, as necessary, that relate to our State's definition of adequate yearly progress under section 1111(b)(2) of the ESEA and with any revised strategies that we will implement to reach those goals. If our State fails to establish, by the end of the school year 2002-2003, a State definition of adequate yearly progress that meets the requirements of section 1111(b)(2) of the ESEA, we acknowledge that the US Department of Education may take action under applicable laws to terminate our Local-Flex agreement.

Signature of authorized LEA representative

Typed name of authorized LEA representative

Date

SECTION E

TRANSMITTAL INSTRUCTIONS AND CHECKLIST

APPLICATION TRANSMITTAL INSTRUCTIONS

You must mail or hand-deliver your Local-Flex proposal by SEPTEMBER 17, 2002.

We strongly encourage each potential applicant to send, by August 19, 2002, a notification of its intent to apply for funding to LocalFlex@ed.gov. The notification of intent to apply for funding is optional and should not include information regarding the application. Eligible applicants that fail to provide the notification may still submit an application by the closing date.

Applications Sent By Mail:

An application sent by mail must be addressed to Ms. Milagros Lanauze, U.S. Department of Education, Office of Elementary and Secondary Education/School Support and Technology Programs, 400 Maryland Ave., SW, Rm. 3E219, Washington, DC 20202-6400. **You must mark the package "Attention: Local-Flex Application."**

An application must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service Postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does **not** accept either of the following as proof of mailing:

- (1) A private metered postmark, or
- (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

SPECIAL NOTE: Due to recent disruptions to normal mail delivery, we encourage you to consider using an alternative delivery method (for example, a commercial carrier, such as Federal Express or United Parcel Service; U.S. Postal Service Express Mail; or a courier service) to transmit your application for this competition to us. If you use an alternative delivery method, please obtain the appropriate proof of mailing noted above.

Electronic Submissions:

We encourage applicants who submit hard copies to also submit an electronic version of their application.

If you choose to submit your application electronically, you must send it via the Internet as a .doc file, an .rtf file, or .txt file to LocalFlex@ed.gov. All electronic applications must be received by 5:00 pm Eastern time on September 17, 2002.

Applicants who plan to submit an electronic application only must also submit original hard copies of the signed cover page and assurances form. Signed originals must show proof of mailing (as specified above) by the application deadline. **The Department will not consider valid an electronic application that is submitted without an original signature.**

Applications Delivered by Hand/Courier Service:

An application that is hand delivered must be taken to Ms. Milagros Lanauze, U.S. Department of Education, Office of Elementary and Secondary Education/School Support and Technology Programs, 400 Maryland Ave., SW, Rm. 3E219, Washington, DC 20202-6400. **You must mark the package "Attention: Local-Flex Application."**

Deliveries are accepted between 8:00 a.m., and 5:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. Proper identification is necessary to enter the building.

In order for an application sent through a Courier Service to be considered timely, the Courier Service must be in receipt of the application on or before the closing date.

APPLICATION CHECKLIST

Does your application include --

- ☐ A completed cover page signed by an authorized LEA representative?
- ☐ A proposed five-year plan that contains-
 - ☐ Baseline academic data
 - ☐ Specific, measurable education goals
 - ☐ Strategies for meeting the goals
 - ☐ Description of how you will meet the general purposes of the consolidated programs
and
 - ☐ Addresses the selection criteria?
- ☐ The assurances page signed by an authorized LEA representative?

Did you –

- ☐ Provide one (1) original plus three (3) copies of the application (for a total of **4** copies)?
- ☐ Include “**Attention: Local-Flex Application**” on the cover and envelope containing your proposed agreement?

SECTION F

PROCEDURES FOR SELECTING LOCAL-FLEX PARTICIPANTS

PROCEDURES FOR SELECTING LOCAL-FLEX PARTICIPANTS

- We will acknowledge the receipt of your application by e-mail. If you do not receive a notification of application receipt within 15 days from the date of mailing or hand delivery of your application, you should send an e-mail to LocalFlex@ed.gov.
- We will review all incoming applications to determine if the applicant is eligible to apply for a Local-Flex agreement. Please review the Federal Register notice inviting applications to determine if your LEA is eligible to apply for this program.
- We will conduct a peer review of all eligible applications that are submitted by the September 17, 2002 deadline. By statute, peer reviewers will be individuals who represent parents, teachers, SEAs, LEAs, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.
- Reviewers will review applications for the Local-Flex program based on the selection criteria in this package.
- We expect to negotiate an actual agreement between a participating LEA and the Department. The agreement will essentially incorporate the Local-Flex proposal and specify the specific, measurable educational goals that the applicant proposes to meet through the Local-Flex agreement.
- We intend to notify applicants of the results of the review by late November, 2002. We ask that you hold off any inquiries regarding the results of the review until after that date.

SECTION G

ESTIMATED PUBLIC REPORTING BURDEN

ESTIMATED PUBLIC REPORTING BURDEN

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0655. The time required to complete this information collection is estimated to average 80 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Ms. Milagros Lanauze, U.S. Department of Education, Office of Elementary and Secondary Education, School Support and Technology Programs, 400 Maryland Avenue, S.W., Room 3E219, Washington D.C. 20202-6400.